

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

YOHAN WEBB,

Plaintiff,

vs.

MIKE STREETER, et al.

Defendants.

4:21CV3058

**MEMORANDUM
AND ORDER**

This matter is before the court on two motions filed by Plaintiff.

In Filing 83, Plaintiff requests that a default judgment be entered against Defendant Sasha Wehrbin, in her individual capacity. The motion will be denied because Ms. Wehrbin was not served with summons and did not become a party to this action until she entered a voluntary appearance by filing an answer.

In Filing 85, liberally construed,¹ Plaintiff requests the court to take judicial notice of a contemporaneously filed brief (Filing 86) and to treat it as a response to Defendants' answers. This request will be denied. Under federal pleading practice, a reply to an answer may only be filed if the court so orders. *See* Fed. R. Civ. P. 7(a)(7). The court finds no good reason to permit a reply in this instance.

The court anticipates that a progression order will be entered on or about February 2, 2022, *see* General Order No. 2020-01, ¶17 (Filing 7), at which time discovery may commence, *see id.*, at ¶ 18.

¹ Plaintiff's motion contains only a caption. A motion is a request for a court order, which must "state with particularity the grounds for seeking the order" and "state the relief sought." Fed. R. Civ. P. 7(b); *see also* NECivR 7.1(a) ("A moving party must state the basis for the motion and the specific relief requested."). While "[a] motion raising a substantial issue of law must be supported by a brief filed and served together with the motion," NECivR 7.1(a)(1)(A), the motion itself must satisfy the requirements of Federal Rule of Civil Procedure 7(b).

IT IS THEREFORE ORDERED:

1. Plaintiff's motion for default judgment (Filing 83) is denied in all respects.
2. Plaintiff's motion with response to answers (Filing 85) is denied in all respects.

Dated this 20th day of January 2022.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge